

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

FREEMAN WILLIAM MAY,	:	
Petitioner	:	CIVIL ACTION NO. 3:16-346
	:	
v.	:	
	:	
THOMAS McGINLEY, Superintendent, SCI-Coal Township,	:	(JUDGE MANNION)
Respondent	:	
	:	

ORDER

For the reasons set forth in the Memorandum of this date, **IT IS**
HEREBY ORDERED THAT:

1. The motion for leave to proceed in forma pauperis (Doc. [2](#)) is
GRANTED.
2. The civil rights complaint is dismissed pursuant to 28 U.S.C.
§1915(e)(2)(B)(ii).
3. Petitioner's claims for damages are **DENIED** pursuant to Heck
v. Humphrey, 512 U.S. 477 (1994).
4. The Petitioner is granted leave to withdraw the current §2254
petition without prejudice to filing another §2254 petition raising
all grounds for relief from his conviction.
5. The Petitioner is granted, **until on or before April 29, 2016**, to
notify the court of his decision. If he fails to do so, the court will

rule on the current §2254 petition as filed.

6. If the one-year limitations period would expire on or before April 29, 2016, the limitations period is tolled from the date of this order until the Petitioner's notification is filed, or April 29, 2016, whichever is earliest. In these circumstances, and if Petitioner decides to file an all-inclusive §2254 petition raising all grounds for relief, the Petitioner's response must also be accompanied by his new §2254 petition.

s/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

Date: March 29, 2016

O:\Mannion\shared\MEMORANDA - DJ\CIVIL MEMORANDA\2016 MEMORANDA\16-0346-01 order.wpd

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

FREEMAN WILLIAM MAY, :

Petitioner : **CIVIL ACTION NO. 3:16-CV-346**

v. :

THOMAS McGINLEY, : **(JUDGE MANNION)**

Superintendent, :

SCI-Coal Township, :

Respondent :

NOTICE OF ELECTION

I, _____, petitioner in the above-captioned action,
have read the Order of Court which accompanied this form notice.

Pursuant to that order, I elect to proceed in this action as follows:

- I have labeled my petition as a petition for writ of habeas corpus under 28 U.S.C. § 2254. I choose to have the court rule on my petition as filed. I understand that I may be forever barred from presenting in federal court any claim not presented in this petition. I further understand that by doing so I lose my ability to file a second or successive petition absent certification by the Court of Appeals, and that the potential for relief is further limited in a second or successive petition.
- I have labeled my petition as a petition for writ of habeas corpus under 28 U.S.C. § 2254. I choose to withdraw the petition so that I may file one, all-inclusive petition under 28 U.S.C. § 2554 within the one-year limit for filing such a petition.

YOUR ELECTION ON THIS FORM, AS WELL AS THE FAILURE TO MAKE AN ELECTION, WILL BE BINDING ON YOU AS RELATES TO YOUR LITIGATION IN FEDERAL COURT OF ANY CLAIM RELATED TO THE CUSTODY YOU HAVE CHALLENGED. READ CAREFULLY THE MEMORANDUM AND ORDER ACCOMPANYING THIS FORM NOTICE OF ELECTION.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____
(Date)

(Signature of Petitioner)